

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

WARREN EASTERLING,

Plaintiff,

:

Case No. 3:19-cv-112

- vs -

Chief Judge Edmund A. Sargus, Jr.
Magistrate Judge Michael R. Merz

DONALD J. TRUMP, et al.,

Defendants.

:

REPORT AND RECOMMENDATIONS

This case is before the Court *sua sponte* pursuant to Fed.R.Civ.P. 4(m) which provides that if a defendant is not served within ninety days after the complaint is filed, the Court must, after notice to the Plaintiff, dismiss the case or require the Plaintiff to make service within a specified time.

This case was filed April 16, 2019, and names as Defendants Donald Trump and eight judges of this Court. Within eight days of the filing, the Magistrate Judge ordered Plaintiff to file proof of service in the form required by Fed.R.Civ.P. 4(l)(ECF No. 12). Despite many Responses to that Order (ECF Nos. 24, 26, 28, 30, 32, 35, 39), Plaintiff has never proven valid service of process on any one of the Defendants. He has attempted to make service himself, which is forbidden by Fed.R.Civ.P. 4(c)(2). He has attempted certified mail service under the Ohio Rules

of Civil Procedure, but never by having the service made by the Clerk of this Court as required by the Ohio Rules and S. D. Ohio Civ. R. 4.2.

It is therefore respectfully recommended that this action be dismissed without prejudice as provided in Fed.R.Civ.P. 4(m). Setting a specified additional time for Plaintiff to make service would be pointless in view of his stubborn insistence that he has already done so and his accusation that the Magistrate Judge has engaged in a conspiracy with the Clerk of Court “to intimidate due process and obstruct justice.” (ECF No. 39, page 2 of 3).

July 16, 2019.

s/ *Michael R. Merz*
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to seventeen days because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party’s objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).